

FCC 96-154

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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In the Matter of )

Implementation of Cable Act Reform Provisions )  
of the Telecommunications Act of 1996 )

) CS Docket No. 96-85

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**COMMENTS ON PROPOSED RULEMAKING ON SMALL CABLE OPERATOR  
RATE DEREGULATION BY THE CITY OF FAIRFIELD, CALIFORNIA  
(FCC CA ID #0459)**

CITY OF FAIRFIELD, CALIFORNIA

Betsy Strauss  
City Attorney

Marci Coglianese  
Assistant City Attorney

1000 Webster Street, Room 407  
Fairfield, California 94533  
(707) 428-7419

Its Attorneys

May 24, 1996

1000 Webster Street, Room 407  
Fairfield, California 94533  
(707) 428-7419  
OJL

**COMMENTS ON PROPOSED RULEMAKING ON SMALL CABLE OPERATOR  
RATE DEREGULATION BY THE CITY OF FAIRFIELD, CALIFORNIA**

In its April 5, 1996, Order and Notice of Proposed Rulemaking in this docket, the Commission has proposed specific rules to clarify implementation of Section 301(c) of the Telecommunications Act of 1996 ("the Act") which provides for greater deregulation of small cable operators. In paragraph 93 of its Order and Notice of Proposed Rulemaking, the Commission seeks comment on whether a small operator should instantly lose its unregulated status when its subscriber base or annual revenues exceed a statutory maximum or, instead, should be given a period of transition into rate regulation.

The Commission suggests two considerations which militate against instant regulation are that it may pose: (1) a disruption to consumers and operators; and (2) a disincentive to operator responsiveness to subscribers for fear of enlarging the subscriber base beyond the statutory maximum. The City of Fairfield provides the following comments on the two considerations raised by the Commission and recommends against delaying regulation when a statutory maximum is exceeded.

1. The City agrees with the Commission that the plain language of the Act indicates that a deregulated system would become subject to regulation upon exceeding a statutory maximum. While a short transition period for implementing regulation may be a practical necessity, subscribers should not be required to sacrifice the benefits of regulation during this transition. Rate refund liability, if any, should extend back to the date a statutory maximum was exceeded. The City believes that its cable-subscribing residents would find rate reregulation less disruptive than rate deregulation, provided that in both instances subscribers receive adequate advance notice of the reasons for any rate change.

2. The City does not believe that a concern over discouraging the responsiveness of small operators to their subscribers should drive the Commission's rule on the timing of regulation for operators which subsequently exceed a statutory maximum. It is the City's observation that operators which have been rate-regulated under the 1992 Act have still found sufficient economic incentives to grow their subscriber base. It seems even less likely now, under the 1996 Act, that regulation will be a disincentive to responsiveness, since rigorous effective competition and the ultimate end of regulation are clearly in sight.

3. Finally, the City would like to point out that many small operators are currently voluntarily exceeding the statutory maximums by selling their systems to larger operators. This trend, evident throughout the industry, is resulting in the instant conversion of once small systems into large MSOs. For example, the City's sole operator, which claims small operator status effective February 8, 1996, will be acquired by the eleventh largest MSO on May 31, 1996. The City strongly opposes any "grandfathering" or transition to regulation under circumstances such as these where the 90-day period for City evaluation of the operator's small operator certification will not even have run before the operator no longer meets the criteria. To give such relief, would thwart Congressional intent by extending rate relief intended for small operators to MSOs.

In conclusion, the City recommends that the Commission implement the plain language of the Act, and devise a rule that provides for instant rate regulation once a statutory maximum is exceeded, but provides for a reasonable implementation period of, perhaps, 90 days. Under the rule proposed by the City, rate refund liability would extend back to the date the operator no longer meets the definition of "small operator."

BY: Marci Coglianese

Betsy Strauss  
City Attorney

Marci Coglianese  
Assistant City Attorney

1000 Webster Street, Room 407  
Fairfield, California 94533  
(707) 428-7419

Its Attorneys

May 24, 1996

**PROOF OF SERVICE - C.C.P. §§ 1013A, 2015.5**

I, JoAnn Morgan, declare that:

1. I am employed in the County of Solano, California; I am over the age of eighteen years and not a party to the within cause; and my business address is 1000 Webster Street, Room 407, Fairfield, California 94533.

2. I am readily familiar with the practice of the City of Fairfield for the processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited in the United States Postal Service the same day as it is placed for processing.

3. On May 24, 1996, I served the following document(s)

**Comments on Proposed Rulemaking on Small Cable Operator  
Rate Deregulation by the City of Fairfield, California**

on the following interested party/parties:

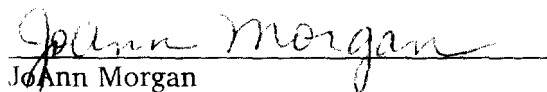
Office of the Secretary, Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

4. Said service was performed in the following manner:

- ☐ **BY U.S. POSTAL SERVICE (Mail):** I placed each such document in a sealed envelope addressed as noted above, with first-class mail postage thereon fully prepaid, for collection and mailing at Fairfield, California, following the above-stated business practice, on this date.
- ☐ **BY PERSONAL SERVICE:** I hand-delivered each such envelope to the address[es] listed on this date.
- ☒ **BY FEDERAL EXPRESS:** I caused each such envelope to be delivered by overnight delivery via Federal Express to the address[es] listed above on this date.
- ☐ **BY FACSIMILE:** I caused said document[s] to be transmitted by a facsimile machine to the parties at the number[s] indicated above on this date.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed May 24, 1996, at Fairfield, California.

  
JoAnn Morgan

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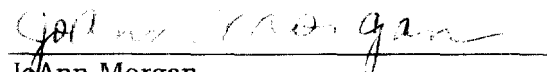
Nancy Stevenson  
Cable Services Bureau  
2033 M Street, N.W., Room 408A  
Washington, D.C. 20554

4. Said service was performed in the following manner:

- ☒ **BY U.S. POSTAL SERVICE (Mail):** I placed each such document in a sealed envelope addressed as noted above, with first-class mail postage thereon fully prepaid, for collection and mailing at Fairfield, California, following the above-stated business practice, on this date.
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